American Tariff Policies From an International Point of View

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THE League of Nations should have no jurisdiction over the highness or lowness of the tariff which this or any other fully sovereign nation wishes to enact. The amount of the tariff, it is true, has been and may continue to be a subject for negotiations between governments. Many commercial treaties have dealt with tariff rates and prohibitive duties have been the subject of protests and even trade wars. Nevertheless, the minimum rates which each nation collects at its border should be determined by its need for revenue, or food and raw materials, or by the stage of its industrial development. In the last analysis the determination of these rates is a domestic question. It is outside the jurisdiction of the League of Nations and should be reserved to each individual nation.

Discriminations

On the other hand, tariff discriminations, reciprocity arrangements and preferences should be specifically placed under the jurisdiction of the league. A fundamental principle of association among nations having the common interest of fostering good will in international affairs should be equality of treatment. Tariff treaties or systems which favor one nation against another inevitably lead to irritation and suspicion. Colonial monopolies maintained by preferences granted to the mother country encourage in the excluded nations the ambition to break down the barriers or it impels them to seek by diplomacy and armaments to obtain for themselves exclusive colonial spheres. The use by a nation of its economic power to obtain special tariff concessions or a system of preferential tariffs between colonies and the mother country is inconsistent with harmonious world relationships. Excluded nations are less injured and favored nations are less benefited than is commonly supposed; nevertheless, the very idea of discrimination has awakened fears and suggested retaliation.

EQUALITY OF TREATMENT

Equality of treatment was encouraged among nations before the war by the limited application of two principles—unconditional most-favored-nation treatment among nations and the open door in dependent colonies, protectorates and spheres of influence. The former was the corner-stone of the system of commercial treaties among European nations and the guarantee that no nation, entitled to the position of "a most-favored-nation," would be placed at a disadvantage against another. The latter principle —the open door—was adopted by several nations in their colonies and was established for large areas of the world by treaty or by international agreement. In many instances, however, the force of these principles was broken by exceptions and qualifications which left untouched the most flagrant cases of discrimination and inequality of treatment—such cases as the preferential tariffs of the self-governing British dominions and the French colonial empire.

The traditional policy of the United States, which led us to avoid entangling alliances with European states, has had its effect on our commercial policy. From the beginning of our national existence we have insisted upon a form and interpretation of the most-favored-nation clause in commercial treaties different from those accepted by European nations in 1914. We have sought special favors from foreign countries by tariff bargaining and we have established preferences in our favor in the Philippines. We have pursued these policies with little or no reference to their bearing on world affairs and in almost all cases without any intent of injuring excluded nations or any appreciation of the possible complications which might arise. Now, however, we are entering actively into world politics. More, we are championing the ideal of equality of treatment. It is very essential, therefore, for us to appreciate what this principle implies in our own practices and policies.

MOST-FAVORED-NATION CLAUSE

As has been stated, our position on the most-favored-nation clause has differed from that of European governments. We have contended that concessions should be made only to those who would reciprocate; that when a concession was made "freely" without a return to one nation, it would be extended to all others

entitled to most-favored-nation treatment, but when the concession was made upon a condition, it would be extended to other nations only when they granted equivalent concessions. Our object was equality of treatment, sought by offering equality of opportunity to bargain for the advantages which we had to offer.

The Tariff Commission Report on Reciprocity and Commercial Treaties says,

> The willingness to treat with all nations equally and to offer the same concessions to all in return for compensatory concessions by each was essentially a step forward. It was no part, however, of the American policy to give to some states "freely" such concessions as were given to others in consideration of reciprocal concessions. The earliest American statesmen adopted the "special bargain" principle, and the American government has acted ever since in conformity with the conception that commercial concessions are to be given for specific compensation, and that most-favored-nation treatment implies and requires nothing more than the granting of opportunity to purchase, on the basis of reciprocal give and take, treatment identical with, or similar to, that accorded other States.

Historically there is much to be said for the American position. It had at first a liberalizing influence on commercial relations and was a natural accompaniment of our independent position in international affairs. It became, however, the support of special bargaining and reciprocity treaties with their undesirable results. After the middle of the nineteenth century European states began experimenting with tariff systems and were led to adopt as a basis of their bargaining the unconditional form and interpretation of the most-favored-nation clause in their treaties. They began with the assumption that the most that any nation should or could in the long run expect in commercial relations is equality of treatment. Constant bargaining was recognized as undesirable. The advantage of the unconditional clause was that it automatically and immediately generalized concessions made by one state to another, thus maintaining equality of treatment and making new bargains unnecessary every time two nations adjusted their tariff relations. It guaranteed that no country would be placed on a less favorable basis than another. It is an effective means of generalizing concessions and automatically prevents discriminations.

During the war a disposition began to appear among European nations to abandon their pre-war position on this clause and to

adopt the American. Many public men despaired of making the clause effective because of the ways in which it had been nullified by discriminations concealed in tariff classifications, by customs regulations, and in other ways. The war itself which produced such programs as "Mittel Europa" and the resolutions of the Paris Economic Conference turned men's minds toward devices for discriminations and trade wars. The leading European nations have denounced their commercial treaties and are now considering their future policies.

However much the unconditional form and interpretation of the most-favored-nation clause has been evaded in the past, it is more desirable than the conditional form and interpretation, and its adoption by the nations as one of the clauses in the final treaty of peace is essential as a step to make effective the principle of equality of treatment. We in America must face this fact and answer whether or not we are willing to abandon our traditional policy. The evasion by concealed discriminations of the principle of equality is no excuse for a policy of open discrimination but rather conclusive proof of the need of a league of nations to make effective in spirit as well as in letter the principle embodied in the unconditional most-favored-nation clause. As long as we or any other people insist upon the conditional form of the most-favored-nation clause, we retain a ground for friction between nations and the world is deprived of one of the most effective means known to modern international commerce for establishing equality of treatment and international fair dealing.

BRAZILIAN PREFERENCES

The test of a nation's devotion to the principle of equality of treatment comes when particular cases are taken up for consideration. Little progress will be made if each nation seeks to preserve every vestige of its traditional rights and declines to give up something in the interests of international harmony and good will. Experience demonstrated to the nations of Europe that preferential arrangements among themselves were undesirable. May it not be desirable now to extend the principle of equality? Can the self-governing dominions of the British Empire seek admission as equal units into the League of Nations and at the same time continue to maintain their preferential tariffs? Can

we in America advocate equal treatment and continue to accept preferential treatment in the Brazilian market?

Under the reciprocity sections of the tariff acts of 1890 and 1897 the United States experimented with special reciprocity bargaining and treaties. A number of agreements were entered into, which obtained for the United States special and in some cases exclusive concessions. The last of these agreements was terminated by the tariff act of 1909 and a fundamentally different principle of tariff bargaining was adopted.[1] Our arrangement with Brazil—not a formal treaty at all— is the only surviving remnant of this reciprocity period. Under section 3 of the tariff act of 1897 the President was authorized to impose a penalty duty of three cents a pound on coffee from countries which treated American products unequally and unreasonably. Brazil was particularly dependent on this country as a market for its coffee. No agreement was negotiated but in 1904 our government suggested to Brazil that unless preferences were granted certain American products, particularly wheat flour, in Brazilian markets, the penalty duty would be imposed. The British flour millers in Brazil and the Argentine wheat interests were opposed to preference and their influence developed opposition in the Brazilian Congress. In spite of the opposition, however, preferences were granted to certain American products, including wheat flour and, with the exception of 1905, have been renewed each year with some change in the articles affected. Some growth in the trade of the favored articles has resulted from preference and there was a general growth of American trade to Brazil as a result of the new interest stimulated in that market.

COLONIAL PREFERENCES

A second general principle contributing to make effective equality of treatment which should become an integral part of the final treaty of peace is the "open door" independent colonies, protectorates, and spheres of influence. The practice among nations with reference to the open door in their dependent colonies has been varied. Great Britain, Germany, and The Netherlands for different reasons maintain the open door in the import tariffs of their dependent colonies. Spain, Portugal, Italy and particularly

[1] Section 2.

France have established preferences in favor of their own goods in their colonial possessions and granted colonial goods preferences in their markets. The United States also excludes other nations from an equal participation in the trade of the Philippine Islands. No nation alone should be asked to abandon its preferences but with the growing recognition of the fact that dependent colonies are a trust which more advanced nations are called upon to administer should come the universal adoption of the open door.

OUR PHILIPPINE TARIFF POLICY

Our tariff policy in the Philippines was affected by the treaty of peace signed at Paris in 1898 in which we agreed to grant to Spain equality of treatment in Philippine ports for a term of ten years. In the course of the discussions at the conference, the Spanish commissioners raised the question whether it was the purpose of the United States to grant equality of treatment in the Philippines to all nations or merely to Spain. The American commissioners replied:

> The declaration that the policy of the United States in the Philippines will be that of the open door to the world's commerce necessarily implies that the offer to place Spanish vessels and merchandise on the same footing as American is not intended to be exclusive. But, the offer to give Spain that privilege for a term of years, is intended to secure it to her for a certain period by special treaty stipulation whatever might be at any time the general policy of the United States.

This statement was a mere prediction of our future policy and not a promise. It is not likely that this statement indicated an intention to maintain the open door in the Philippines. The discussion on this point did not attract wide interest. An open-door policy, however, was maintained for a time. For three years after the United States took possession of Manila, the old Spanish tariff slightly modified and shorn of the Spanish preferences was retained and applied impartially to the imports of all countries including America. In the ports of the United States, Philippine goods, on the other hand, were charged the full rates in the Dingley Tariff Act.

This state of equality, however, was not satisfactory to American business men. Trade showed little tendency to follow the flag and complaints arose. It was recognized that because of our treaty obligations American goods could not be given a preferen-

tial rate in the Philippines over Spanish goods until after the expiration of the ten-year period. But there was a demand for a revision of the Philippine tariff in order to give a preference to this country in the classification of goods. Such a revision was made in 1901 by the Philippine Commission and enacted by the Congress of the United States in 1902. Before enactment this bill was submitted to the American exporting interests for their criticism and suggestions. Various schemes for concealed preferences were advocated and subsequently adopted. One discriminatory provision, for example, had to do with the weighting of cotton goods. Foreign competitors weighted their goods while Americans did not. The goods were, therefore, assessed for duty by weight without allowance for the weighting of materials. A further preference was given to fabrics of widths peculiar to American looms.

The tariff was revised again in 1905. In bringing in the bill the committee said: "The general purpose of this bill, as of the former act, is to give the United States such benefits as there are arising from the classification of goods." Faulty information concerning the classification of cotton goods, was relied upon however, in drafting this bill and the intended preference did not result. The error was corrected the next year. Concerning the effectiveness of the new revision, the report of the Philippine Commission for 1907 says:

> The total values of such cottons imported increased $1,677,750, or from $6,642,329 for 1906 to $8,320,079 for the year just ended, or 25 per cent. The increase in the value of cotton goods imported from the United States was even more marked, rising from $278,796 for 1906 to $1,056,328 for the year just ended, an actual increase of $777,532 in value or nearly 400 per cent. This result is directly traceable to the amendment of the Act of 1905 enacted by Congress on February 26, 1906. This act differentiates narrow cotton fabrics from the so-called double width goods, and thus provides a comparatively low rate of duty upon goods produced in the narrow (American) looms.

No one in this country opposed these discriminatory practices. There was apparently no consciousness of unfairness in the adoption of them. They were openly advocated by the Republican Party, which was in the majority, and criticised by the Democrats on the ground that the discriminations were not sufficiently effective.

In 1909, when the ten-year guarantee to Spain of the open door expired, a tariff of about 20 per cent was placed on all goods enter-

ing Philippine ports from foreign countries and a preference was granted to American goods by admitting them free of duty. This act remains in force today. Whatever may have been the intention at the time of the Treaty of Paris the open-door policy as to imports into the Philippines was formally abandoned at the earliest date on which it was legally possible.

In the meantime the policy with respect to imports from the Philippines into the United States underwent a similar transition. The decision of the United States Supreme Court in the Insular Cases late in 1901 made impossible the imposition of tariff duties upon goods entering American ports from the Philippines, unless such duties were specifically provided for by an act of Congress. The issue of the desirability of such duties was thus raised. Some felt that trade from the Islands to the United States should be free as a matter of justice to the Filipinos. It was argued that having taken the Spanish market from them we should give them preferential access to our own. Others advocated preference in order to take the trade of the Philippines from foreigners. On the other hand, sugar, rice, and tobacco interests in the United States feared competition from the Philippines and insisted that even though a debt might be owed to the Filipinos, it should not be paid at the expense of their particular industries. A compromise was arrived at by which Philippine goods, with the exception of certain specific articles, were admitted free to American markets and on those specified articles, among which were sugar and tobacco, a reduction of 25 per cent from the Dingley rates was granted. All moneys collected from imports from the Philippines were turned back to the Philippine treasury.

In 1909 free entry was granted to all Philippine goods except rice with the provision that in the case of sugar and tobacco the privilege of free importation should be limited to a specified amount annually. The limitations were removed in 1913 and since then the products of the Philippine Islands which do not contain more than 20 per cent of foreign material are, when shipment is made direct, admitted free into the United States. They are exempted from the internal revenue tax of the Philippines but pay the equivalent of the internal revenue tax collected on similar articles in the United States.

Export taxes were a peculiar feature of the Philippine fiscal

system and they were utilized as a means of discrimination. They were confined to a few of the principal Philippine exports. It was provided in 1902 that the amount of these taxes should be deducted from the duties paid by the Philippine goods in American ports, and in the case of goods admitted free to American ports the export taxes were refunded if the goods were delivered and consumed in the United States. This provision made this country the principal market for Manila hemp and benefited directly certain large American consumers of this product. All export taxes were repealed in 1913 and the Government Act of 1916 makes them unconstitutional.

In developing their closed-door policy in the Philippines, the American people have maintained an attitude both naïve and uncritical. They have pursued this policy at the same time that they have urged the open door in China and only occasionally has a leader raised his voice to point out the inconsistency. We have enacted discriminatory legislation in the Philippines apparently with little appreciation of its narrowness. Genuinely liberal forces, in fact, have at times sanctioned it on grounds of justice to the Filipinos and fairness to ourselves. Our policy, however, appears in a different light when it is placed side by side with the French policy in Indo-China and the Italian policy in Eritrea, and when it is viewed not from the purely nationalistic standpoint but from the standpoint of world policy and the League of Nations.

THE SPIRIT THAT GUIDES THE NEW ERA

More important than anything else in the commercial negotiations of the immediate future is the spirit which guides the nations. Each nation has a right to security and to the preservation of its essential interests. At the same time, however, it should be considered seriously what may be given up in order that wider interests may be further advanced. The cynic may sneer at ideals of international good-will and world peace but if we once admit that nations cannot, by coöperation, further them, we confess the bankruptcy of our civilization. There are problems arising in international intercourse which nations individually or bargaining two by two cannot solve adequately. By the establishment of a league of nations we merely extend government

where it did not exist before. International government like any other, however, must have principles which form the basis of its administration. Among these principles unquestionably should be unconditional most-favored-nation treatment among nations (Australia, New Zealand, South Africa, and Canada being considered nations for this purpose) and the open door in all dependent parts of the world. If these principles are accepted by the United States our traditional position on the most-favored-nation clause goes, the Brazilian arrangement becomes untenable, and the open door must be adopted in the Philippines.

May there be any exceptions to these general principles of equal treatment? Undoubtedly there are cases where close political and economic bonds would justify even from an international standpoint a reciprocal arrangement. Our reciprocity agreement of 1902 with Cuba falls in this class. Under it American products are granted concessions in Cuba's import tariff and Cuban products enjoy preferences in American markets. A discontinuance of this arrangement would be a distinct injustice *to Cuba.* Her prosperity depends upon her political and geographic relations with the United States and no other country could take our place. But such cases are comparatively few and should be permitted only when approved by the League of Nations. The important thing is to adopt the general principle of equal treatment and to recognize what it implies.